

CITY OF BEND  
COMMUNITY DEVELOPMENT DEPARTMENT  
710 WALL STREET  
BEND, OR 97701



August 30, 2011

Ms. Marlene Dortch,  
Office of the Secretary  
Federal Communications Commission  
455 12th Street SW  
Washington, DC 20554

RE: Acceleration of Broadband Deployment, WC Docket No. 11-59  
City of Bend Reply to PCIA Comments filed on July 18, 2011

Dear Ms. Dortch:

The City of Bend, Oregon submits this letter in response to the comments filed on July 18, 2011 by PCIA – *The Wireless Infrastructure Association* in the Commission's *Notice of Inquiry*. Specifically, the City of Bend takes issue with the table on pages 7 & 8 in Exhibit B of PCIA's comments, which mistakenly included the City of Bend on a list of jurisdictions which require a full zoning review and hearing for collocation applications, regardless of the status of the existing tower. As explained below, Bend's regulations do NOT require a full zoning review and hearing for collocation applications.

In 2010, the City of Bend formed an advisory committee made up of local citizens and representatives from the telecommunications industry to help draft a new section of the Bend Development Code to regulate wireless communication facilities. All participants agreed that the City's old regulations, which were written prior to the invention of cell phones and the internet, needed to be replaced. Ultimately, the City adopted an entirely new chapter of the Bend Development Code on April 20, 2011 entitled, "Chapter 3.7, Wireless and Broadcast Communication Facilities – Standards and Process", which is attached to this letter as Exhibit A.

To minimize adverse visual impacts associated with the proliferation and clustering of towers, the City's new regulations encourage co-location of antennas or arrays on existing towers over the construction of new towers. Broadband facilities proposed within the public right-of-way on existing utility poles or light poles may be approved through a Type I review process, provided that they meet certain standards. The Type I process is an administrative review without a public hearing or notice to surrounding property owners. Other collocation applications may be approved through a Type II review process, which is an administrative review without a public hearing, following mailed notice and a 14-day written comment period for surrounding property owners.

In summary, it appears that PCIA mistakenly included the City of Bend in Exhibit B of its comments based on outdated regulations that are no longer in effect.

Sincerely,

Aaron Henson, AICP  
Senior Planner  
Community Development Department  
City of Bend, Oregon

cc: Rebekah Dohrman, League of Oregon Cities

## **Chapter 3.7      Wireless and Broadcast Communication Facilities – Standards and Process**

### **Sections:**

|                 |  |
|-----------------|--|
| <b>3.7.100</b>  | <b>Purpose and Applicability</b>             |
| <b>3.7.200</b>  | <b>Definitions</b>                           |
| <b>3.7.300</b>  | <b>Application Requirements</b>              |
| <b>3.7.400</b>  | <b>General Regulations</b>                   |
| <b>3.7.500</b>  | <b>Review Process and Approval Standards</b> |
| <b>3.7.600</b>  | <b>Exemptions</b>                            |
| <b>3.7.700</b>  | <b>Maintenance</b>                           |
| <b>3.7.800</b>  | <b>Inspections</b>                           |
| <b>3.7.900</b>  | <b>Preexisting Towers</b>                    |
| <b>3.7.1000</b> | <b>Abandonment or Discontinuation of Use</b> |

### **3.7.100      Purpose and Applicability.**

- A. Purpose.** This Chapter is intended to accommodate the provision of wireless and broadcast communication services and provide a uniform and comprehensive set of standards for the development, siting, and installation of wireless and broadcast communication facilities. In accordance with the guidelines and intent of federal law and the Telecommunications Act of 1996, these regulations are intended to: (1) protect and promote the public health, safety, and welfare of the residents of Bend; (2) preserve neighborhood character and protect aesthetic quality; (3) encourage siting in preferred locations and (4) minimize adverse visual impacts through careful design, configuration, screening, and innovative camouflaging techniques.
- B. Applicability.** This Chapter applies to the development, siting, and installation of wireless and broadcast communication facilities, including but not limited to cellular telephone facilities, broadband internet facilities, and radio and TV broadcasting facilities. This Chapter in no way prohibits, restricts, or impairs the installation, maintenance, or use of video antennas (including direct-to-home satellite dishes, TV antennas, and wireless cable antennas) used by viewers to receive video programming signals from direct broadcast facilities, broadband radio service providers, and TV broadcast stations.

### **3.7.200      Definitions.**

The following words and phrases used in this Chapter, which supplement the definitions found in Chapter 1.2 and elsewhere in this Code, shall have the following meanings:

**Antenna** means any system of wires, poles, rods, reflecting discs or similar devices designed for telephonic, radio, facsimile, data, or television communications through sending and/or receiving of electromagnetic waves when such system is either external to or attached to the exterior of a structure. Antennas shall include, but not be limited to, devices having active elements extending in any direction, and directional beam-type arrays having elements carried by and disposed from a generally horizontal boom that may be mounted up and rotated through a vertical mast or tower interconnecting the boom and antenna support, all of which elements are deemed to be part of the antenna.

## **BEND CODE - CHAPTER 10-10 DEVELOPMENT CODE**

**Antenna height** means the vertical distance measured from the ground surface at grade to the tip of the highest point of the antenna on the proposed structure.

**Antenna support** means any pole, telescoping mast, tower, tripod or any other structure that supports a device used in the transmitting and/or receiving of electromagnetic waves.

**Broadcast communication facility** means any facility that transmits radio or television signals including, but not limited to, antennas, dish antennas, microwave antennas, and other types of equipment for the transmission of such signals, including towers and similar supporting structures, equipment cabinets or buildings, parking areas, and other accessory development. This definition does not apply to Amateur Radio Stations as defined by the Federal Communications Commission, Part 97 of the Commission's Rules.

**Camouflaged** means any wireless or broadcast communication facility that is designed to blend into the surrounding environment. Examples of camouflaged facilities may include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, antennas integrated into architectural elements, towers made to look like trees and antenna support structures designed to look like flag poles or light poles.

**Co-location** means locating wireless or broadcast communication equipment from more than one provider on a single support structure.

**Equipment building, shelter or cabinet** means a cabinet or building used to house equipment used by wireless or broadcast communication providers at a facility.

**Façade mounted antenna** means an antenna architecturally integrated into the façade of a building or structure.

**Facility** means a wireless or broadcast communication facility.

**Faux tree** means a wireless or broadcast communication tower camouflaged to resemble a tree.

**Guyed tower** means a wireless or broadcast communication tower that is supported, in whole or in part, by guy wires and ground anchors.

**High visibility** means the following types of wireless or broadcast communication facilities:

1. Monopoles, lattice towers and guyed towers.
2. Any wireless or broadcast communication facilities that do not meet the definition of stealth, low visibility, or moderate visibility.

**Lattice tower** means a guyed or self-supporting three or four sided, open, steel frame support structure used to support wireless or broadcast communication equipment.

**Low visibility** means the following facilities if they do not exceed the height limit of the applicable zoning district, or if they do not increase the height of an existing facility:

1. Whip antennas not exceeding 6 feet in length or height, including mounting, and measuring no more than 3 inches in diameter, located on existing structures including, but not limited to, water storage tanks, high-voltage transmission towers, utility towers and poles, sign standards,

## **BEND CODE - CHAPTER 10-10 DEVELOPMENT CODE**

- and roadway overpasses, with equipment cabinets that are screened from view.
2. Facilities, including equipment cabinets, that are screened from view through the use of architectural treatments, such as cupolas, steeples, and parapets, and are consistent with existing development on adjacent properties.
  3. Additions to existing permitted low-visibility facilities if the additions themselves meet the definition of low visibility and are designed to minimize visibility of both the facility and equipment cabinets.
  4. Changes to an existing building that are consistent with the building's architectural style and the equipment cabinets are not visible.

**Maintenance** means emergency or routine repairs or replacement of transmitters, antennas, or other components of previously approved wireless telecommunication facilities which do not create a significant change in visual appearance or visual impact.

**Microcells** provide additional coverage and capacity where there are high numbers of users within urban and suburban macrocells. The antennas for microcells are mounted at street level, typically on the external walls of existing structures, lamp-posts, and other street furniture. Microcell antennas are usually smaller than macrocell antennas, and when mounted on existing structures, can often blend into building features. Microcells provide radio coverage over distances, typically between 100m and 1000m, and operate at power levels substantially below those of macrocells.

**Moderate visibility** means the following facilities if they do not exceed the height limit of the applicable zoning district, or do not increase the height of an existing facility, unless approved through a Conditional Use Permit:

1. Panel-shaped antennas not exceeding 8 feet in length or height that are flush-mounted to an existing building façade or other existing structure on at least one edge, or extend a maximum of 24 inches from the building façade or other structure at any edge, do not exceed the height of the building or other structure, and are designed to blend with the color, texture, and design of the existing building or structure, with equipment cabinets that are screened from view.
2. Wireless or broadcast communication facilities that are camouflaged, such as faux trees, flag poles, and light poles, provided that the equipment building, shelter, or cabinet for the facility is screened or camouflaged.

**Monopole** means a wireless or broadcast communication facility consisting of a single pole constructed for purposes of supporting one or more antennas without guy wires or ground anchors.

**Neighborhood character** means those unique attributes including, but not limited to, architecture, historical and cultural features, historical development patterns, landscape, hardscape, and the size, scale and spacing of buildings and other structures that define a neighborhood's identity.

**Panel or directional antenna** means an antenna or array of antennas designed to concentrate a radio signal in a particular area.

**RF** means Radio Frequency.

**Roof mounted antenna** means any antenna with its support structure placed directly on the roof of any building or structure.

**Screened** means concealed from view with a sight obscuring fence, wall or vegetation.

## BEND CODE - CHAPTER 10-10 DEVELOPMENT CODE

**Service area** means the area served by a single wireless or broadcast communication facility.

**Side-mounted antennas** means those antennas that are mounted on the side of a tower structure at any height, and includes both the antennas and equipment with protective radome coatings. This term also includes microwave dish antennas, solid or not, located at 150 feet or lower on a tower structure, regardless of the dish diameter. The term does not include solid microwave dish antennas exceeding 6 feet in diameter that are located above 150 feet on a tower structure.

**Small top-mounted antennas** means any antenna mounted on the top of a tower structure where the antenna is 20 feet or less in height and 6 inches or less in outside diameter.

**Speculation tower** means an antenna support structure designed for the purpose of providing location mounts for wireless or broadcast communication facilities, without a binding written commitment or executed lease from a service provider to utilize or lease space on the tower at the time the application is submitted.

**Stealth** means facilities, including, but not limited to microcells, antennas, equipment cabinets, and any other ancillary equipment that cannot be seen from any street or any adjacent property, improved or unimproved, and that do not result in any apparent architectural changes or additions to existing buildings. The addition of landscaping, walls, fences, or grading as screening techniques does not make an otherwise visible facility a stealth facility.

**Telecommunications** means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

**Tower or telecommunications tower** means any mast, pole, monopole, guyed tower, lattice tower, free standing tower, or other structure designed and primarily used to support antennas.

**Whip antenna** means an antenna that transmits or receives signals in 360 degrees. Whip antennas are typically cylindrical in shape, less than 3 inches in diameter and no more than 6 feet long, including the mounting.

**Wireless communication facility** means any facility that transmits and/or receives electromagnetic waves, including, but not limited to, antennas, dish antennas, microwave antennas, and other types of equipment for the transmission or receipt of such signals, including telecommunications towers and similar supporting structures, equipment cabinets or buildings, parking areas, and other accessory development. This definition does not apply to Amateur Radio Stations as defined by the Federal Communications Commission, Part 97 of the Commission's Rules.

### 3.7.300 Application Requirements.

All applications for a wireless or broadcast communication facility shall provide the following reports, documents or documentation:

- A. Geographic Service Area.** The applicant shall identify the geographic service area for the proposed facility, including a map showing all the applicant's existing sites in the local service network associated with the gap the facility is meant to close. The applicant shall describe how this service area fits into and is necessary for the service provider's service network. Prior to the

## BEND CODE - CHAPTER 10-10 DEVELOPMENT CODE

issuance of any building permits, applicants for AM, FM, HDFS, TV, and DTV projects shall provide a copy of the corresponding FCC Construction Permit or license for the facility being built or re-located.

- B. Visual Impact, Technological Design Options, and Alternative Site Analysis.** The applicant shall provide a visual impact analysis showing the maximum silhouette, viewshed analysis, color and finish palette, and proposed screening for all components of the facility. The analysis shall include photo simulations and other information as necessary to determine visual impact of the facility as seen from multiple directions. The applicant shall include a map showing where the photos were taken. Except for Type I applications, the applicant shall include an analysis of alternative sites and technological design options for the facility within and outside of the city that are capable of meeting the same service objectives as the preferred site with an equivalent or lesser visual impact. If a new tower is proposed, the applicant must demonstrate the need for a new tower, and why alternative locations and design alternatives, such as the use of microcell technology, cannot be used to meet the identified service objectives.
- C. Narrative.** The application shall include a written narrative that describes in detail all of the equipment and components to be included in the facility, *e.g.*, antenna(s) and arrays, equipment cabinet(s), back-up generator(s), air conditioning unit(s), lighting, fencing, etc. The following information shall also be provided:
1. Height. Provide an engineer's diagram showing the height of the facility and all of its visible components. Carriers must provide evidence that establishes that the proposed facilities are designed to the minimum height required from a technological standpoint for the proposed site to meet the carrier's coverage objectives. If the tower height will exceed the base height restrictions of the applicable zone, this narrative shall include a discussion of the physical constraints (topographical features, etc.) making the additional height necessary. The narrative shall include consideration of the possibility for design alternatives, including the use of multiple sites or microcell technology that would avoid the need for the new facility or the requested height.
  2. Construction. Describe the anticipated construction techniques and timeframe for construction or installation of the facilities. This narrative shall include all temporary staging and the type of vehicles and equipment to be used.
  3. Maintenance. Describe the anticipated maintenance and monitoring program for the antennas, back-up equipment, and landscaping.
  4. Noise/Acoustical Information. Provide manufacturer's specifications for all noise-generating equipment such as air conditioning units and back-up generators, and a depiction of the equipment location in relation to adjoining properties.
  5. Landscape Plan. Provide a plan showing all proposed landscaping, screening and proposed irrigation with a discussion of how the chosen materials at maturity will screen the site.
  6. Parking. Provide a site plan showing the designated parking area for maintenance vehicles and equipment.
  7. Co-location. In the case of new multi-user towers or similar support structures, the applicant shall submit engineering feasibility data and a letter stating the applicant's willingness to allow

## BEND CODE - CHAPTER 10-10 DEVELOPMENT CODE

other carriers to co-locate on the proposed facilities wherever technically and economically feasible and aesthetically desirable.

8. Lease. The site plan shall show the lease area of the proposed facility.
9. FCC License. Provide a copy of the applicant's FCC license and/or construction permit, if an FCC license and/or construction permit is required for the proposed facility, including documentation showing that the applicant is in compliance with all FCC RF emissions safety standards.
10. Lighting and Marking. Any proposed lighting and marking of the facility, including any required by the FAA.

### 3.7.400 General Regulations.

All applications for wireless and broadcast communication facilities are subject to the following requirements and regulations:

- A. **Maximum number of high visibility facilities per lot or parcel.** No more than one high visibility facility is allowed on any one lot or parcel. The Planning Commission may approve exceeding the maximum number of high visibility facilities per lot or parcel if one of the following findings is made through a Type III review process: 1) co-location of additional high visibility facilities is consistent with neighborhood character, 2) the provider has shown that denial of an application for additional high visibility facilities would have the effect of prohibiting service because the facility would fill a significant gap in coverage and no alternative locations are available and technologically feasible, or 3) the provider has shown that denial of an application for additional high visibility facilities would unreasonably discriminate among providers of functionally equivalent services. In such cases, the Planning Commission shall be the Review Authority for all related applications (e.g., Wireless or Broadcast Communication Facility Site Plan, Conditional Use Permit).
- B. **Towers adjacent to residentially designated property.** In order to ensure public safety, all wireless and broadcast communication towers located adjacent to any property designated as Residential on the Bend Area General Plan Map shall be set back from all residential property lines by a distance at least equal to the height of the facility, including any antennas or other appurtenances. The setback shall be measured from that part of the tower that is closest to the neighboring residentially designated property.
- C. **High visibility facilities** require a Conditional Use Permit on any property designated as Residential on the Bend Area General Plan Map, or designated Public Facilities (PF) on the Bend Area General Plan Map but developed as a residential subdivision.
- D. **Historical buildings and structures.** No facility shall be allowed on any building or structure, or in any district, that is listed on any Federal, State or local historical register unless it is determined by the Review Authority that the facility will have no adverse effect on the appearance of the building, structure, or district. No change in architecture and no High Visibility facilities are permitted on any such building, any such site, or in any such district.
- E. **Equipment location.** No tower or equipment shall be located in a front, rear, or side yard setback in any zone, and no portion of any antenna array shall extend beyond the property lines. For guyed

## BEND CODE - CHAPTER 10-10 DEVELOPMENT CODE

towers, all guy anchors shall be located at least 50 feet from all abutting properties.

- F. Tower heights.** Towers may exceed the height limits otherwise provided for in the Development Code. However, all towers greater than the height limit of the underlying zone shall require a Conditional Use Permit application to be reviewed by the Community Development Director through a Type II process under Chapter 4.1, Land Use Review and Procedures, subject to the approval standards in Chapter 4.4, Conditional Use Permits.
- G. Accessory building size.** All accessory buildings and structures built to contain equipment accessory to a wireless or broadcast communication facility may not exceed 12 feet in height unless a greater height is necessary and required by a condition of approval to maximize architectural integration. Each accessory building or structure located on any property designated as Public Facilities or Residential on the Bend Area General Plan Map is limited to 200 square feet, unless approved through a Conditional Use Permit.
- H. Visual impact.** All facilities shall be designed to minimize the visual impact to the greatest extent practicable by means of placement, screening, landscaping, and camouflage. All facilities shall also be designed to be compatible with existing architectural elements, building materials, and other site characteristics. The applicant shall use the least visible antennas reasonably available to accomplish the coverage objectives. All high visibility facilities shall be sited in such a manner as to cause the least detriment to the view shed of adjoining properties, neighboring properties, and distant properties.
- I. Colors and materials** for facilities shall be non-reflective and chosen to minimize visibility. Facilities, including support equipment and buildings, shall be painted or textured using colors to match or blend with the primary background, unless required by any other applicable law.
- J. All camouflaged facilities** shall be designed to visually and operationally blend into the surrounding area in a manner consistent with existing development on adjacent properties. The facility shall also be appropriate for the specific site. In other words, it should not "stand out" from its surrounding environment.
- K. Facade-mounted antennas** shall be architecturally integrated into the building design and otherwise made as unobtrusive as possible. If possible, antennas should be located entirely within an existing or newly created architectural feature so as to be completely screened from view. Facade-mounted antennas shall not extend more than 2 feet out from the building face.
- L. Roof mounted antennas** shall be constructed at the minimum height possible to serve the operator's service area and shall be set back as far from the building edge as possible or otherwise screened to minimize visibility from the public right-of-way and adjacent properties.
- M. Compliance with photo simulations.** As a condition of approval and prior to final inspection of the facility, the applicant shall submit evidence, such as photos, to the satisfaction of the city sufficient to prove that the facility is in substantial conformance with photo simulations provided with the application. Non-conformance shall require modification to compliance within 90 days or the structure must be removed.
- N. Noise** from any equipment supporting the facility shall meet the requirements of the City's Noise Ordinance.



## **BEND CODE - CHAPTER 10-10 DEVELOPMENT CODE**

- O. No signs, striping, graphics, or other attention-getting devices** are permitted on any wireless or broadcast communication facility except for warning and safety signage with a surface area of no more than 3 square feet. Signs shall be affixed to a fence or ancillary facility and limited to no more than two signs unless more is required by law.
- P. Traffic obstruction.** Maintenance vehicles servicing facilities located in the public or private right of way shall not park on the traveled way or in a manner that obstructs traffic.
- Q. No net loss in required parking spaces** shall occur as a result of the installation of any wireless or broadcast communication facility.
- R. Sidewalks and pathways.** Cabinets and other equipment shall not impair pedestrian use of sidewalks or other pedestrian paths or bikeways on public or private land and shall be screened from view.
- S. Lighting.** Wireless or broadcast communication facilities shall not include any beacon lights or strobe lights, unless required by the Federal Aviation Administration (FAA) or other applicable authority. If beacon lights or strobe lights are required, the Review Authority shall review the available alternatives and approve the design with the least visual impact. All other site lighting for security and maintenance purposes shall be shielded and directed downward, and shall comply with the Outdoor Lighting Standards in Section 3.5.200 of the Development Code, unless otherwise required under federal law.
- T. Speculation.** No application shall be accepted or approved for a speculation tower, *i.e.*, from an applicant that simply constructs towers and leases tower space to service providers, but is not a service provider, unless the applicant submits a binding written commitment or executed lease from a service provider to utilize or lease space on the tower.

### **3.7.500 Review Process and Approval Standards.**

- A. Type I Process.** The following facilities are allowed with the approval of a Wireless or Broadcast Communication Facility Site Plan to be reviewed by the Community Development Director pursuant to a Type I process under Chapter 4.1, Land Use Review and Procedures.
  - 1. Stealth and low visibility facilities.
  - 2. Facilities proposed within the public right-of-way on an existing utility or light pole, so long as they meet all of the following:
    - a. The antennas do not project more than 24 inches above the existing utility pole support structure;
    - b. No more than a total of 2 antennas or antenna arrays are located on a single pole;
    - c. The equipment cabinet is no larger than 6 cubic feet and is concealed from public view by burying or screening by means other than walls or fences.
  - 3. Façade mounted antennas or low powered networked telecommunications facilities, such as those employing microcell antennas, integrated into the architecture of an existing building in such a manner that no change to the architecture is apparent and no part of the facility is visible to public view.

**BEND CODE - CHAPTER 10-10  
DEVELOPMENT CODE**

4. Antennas or arrays that are hidden from public view through the use of architectural treatments, e.g., within a cupola, steeple, or parapet which is consistent with the applicable building height limitation.
5. New antennas or arrays that are attached to an existing broadcast communication facility located in any zone, provided that they do not exceed the following "safe harbor" parameters:
  - a. Side-mounted antennas.
  - b. Small top-mounted antennas. No more than three small top-mounted antennas shall be placed on the top of any one broadcast communication facility without a Type II review.
6. To minimize adverse visual impacts associated with the proliferation and clustering of towers, co-location of antennas or arrays on existing towers shall take precedence over the construction of new towers, provided such co-location is accomplished in a manner consistent with the following:
  - a. An existing tower may be modified or rebuilt to a taller height to accommodate the co-location of additional antennas or arrays, as long as the modified or rebuilt tower will not exceed the height limit of the applicable zoning district. The height change may only occur one time per tower.
  - b. An existing tower that is modified or reconstructed to accommodate the co-location of additional antennas or arrays shall be of the same tower type and reconstructed in the exact same location as the existing tower.

**B. Type II Process.** The following facilities are allowed with the approval of a Wireless or Broadcast Communication Facility Site Plan to be reviewed by the Community Development Director pursuant to a Type II process under Chapter 4.1, Land Use Review and Procedures:

1. High visibility facilities located on any property designated as Commercial, Industrial, Public Facilities, Surface Mining or Mixed Use on the Bend Area General Plan Map and at least 500 feet from any property designated as Residential on the Bend Area General Plan Map.
2. Moderate visibility facilities that do not exceed the height limit of the applicable zone.
3. New antennas or arrays that are attached to an existing broadcast communication facility located in any zone which exceed the "safe harbor" parameters of Section 3.7.500(A)(6)(a) or (b).

**C. Conditional Use Permit Requirements.** Applications for wireless or broadcast communication facilities in all other locations and situations including Moderate or High Visibility facilities that exceed the height limit of the applicable zone shall also require a Conditional Use Permit to be reviewed by the Community Development Director through a Type II process under Chapter 4.1, Land Use Review and Procedures, subject to the approval standards in Chapter 4.4, Conditional Use Permits. In addition to the approval standards in Chapter 4.4, the applicant shall demonstrate that the Wireless or Broadcast Communication Facility Site Plan approval standards in Section 3.7.500(D)(2)-(5) below are met.

**D. Approval Criteria.** The Community Development Director shall approve the use and Wireless or Broadcast Communication Facility Site Plan for any of the facilities listed in Subsections B and C above upon a determination that the following criteria are met:

## BEND CODE - CHAPTER 10-10 DEVELOPMENT CODE

1. The height of the proposed tower or facility does not exceed the height limit of the underlying zoning district, or does not increase the height of an existing facility.
2. The location is the least visible of other possible locations and technological design options that achieve approximately the same signal coverage objectives.
3. The location, size, design, and operating characteristics of the proposed facility will be compatible with adjacent uses, residences, buildings, and structures, with consideration given to:
  - a. Scale, bulk, coverage and density;
  - b. The harmful effect, if any, upon neighboring properties;
  - c. The suitability of the site for the type and intensity of the proposed facility; and
  - d. Any other relevant impact of the proposed use in the setting where it is proposed.
4. All required public facilities have adequate capacity as determined by the City, to serve the proposed wireless or broadcast communication facility; and
5. The proposed wireless or broadcast communication facility complies with all of the General Regulations contained in Section 3.7.400 of this Chapter.

**E. Conditions of Approval.** The City may impose any other reasonable condition(s) deemed necessary to achieve compliance with the approval standards, including designation of an alternate location, or if compliance with all of the applicable approval criteria cannot be achieved through the imposition of reasonable conditions, the application shall be denied.

### **3.7.600 Exemptions.**

The following shall be considered exempt structures or activities under this Chapter:

- A.** Whip or other similar antennas no taller than 6 feet with a maximum diameter of 2 inches.
- B.** Antennas (including direct-to-home satellite dishes, TV antennas, and wireless cable antennas) used by viewers to receive video programming signals from direct broadcast facilities, broadband radio service providers, and TV broadcast stations regardless of zone category.
- C.** Low-powered networked telecommunications facilities such as microcell radio transceivers located on existing utility poles and light standards within public right-of-way. Low-powered networked telecommunications facilities shall comply with this Chapter of the Development Code.
- D.** All military, federal, state, and local government communication facilities except for towers.
- E.** Cell on Wheels (COW), which are permitted as temporary uses in nonresidential zones for a period not to exceed 14 days, or during a period of emergency as declared by the City, County, or State.
- F.** Replacement antennas or equipment, provided the replacement antennas and/or equipment have a function similar to the replaced antenna and/or equipment and do not exceed the overall size of the original antenna and/or equipment.

## **BEND CODE - CHAPTER 10-10 DEVELOPMENT CODE**

### **3.7.700 Maintenance.**

The following maintenance requirements apply to all facilities:

- A. All landscaping shall be maintained at all times and shall be promptly replaced if not successful.
- B. If a flagpole is used for camouflaging a facility, flags must be flown and must be properly maintained at all times.
- C. All wireless and broadcast communication sites shall be kept clean and free of litter.
- D. All wireless and broadcast communication sites shall maintain compliance with current RF emission standards of the FCC, the National Electric Safety Code, and all state and local regulations.
- E. All equipment cabinets shall display a legible operator's contact number for reporting maintenance problems.

### **3.7.800 Inspections.**

- A. The City or its agents shall have authority to enter onto the property upon which a wireless or broadcast communication facility is located, to inspect the facility for the purpose of determining whether it complies with the Building Code and all other construction standards provided by the City and federal and state law.
- B. The City reserves the right to conduct such inspections at any time, upon reasonable notice to the wireless or broadcast communication facility owner. In the event such inspection results in a determination that violation of applicable construction and maintenance standards set forth by the City has occurred, remedy of the violation may include cost recovery for all costs incurred in confirming and processing the violation.

### **3.7.900 Preexisting Towers.**

Towers that lawfully existed prior to the adoption of this Chapter shall be allowed to continue their use as they presently exist. This ordinance does not make lawful any towers that are not lawfully approved on the date this ordinance is adopted. Routine maintenance shall be permitted on such lawful preexisting towers. Lawfully existing towers may be replaced as long as the replacement is in the exact location of the tower being replaced and is of a construction type identical in height, width, weight, lighting and painting. Any changes or modifications to a replacement tower shall not be considered routine maintenance, shall be treated as new construction, and shall comply with the requirements of this Chapter.

### **3.7.1000 Abandonment or Discontinuation of Use.**

The following requirements apply to the abandonment and/or discontinuation of use for all facilities:

- A. All facilities located on a utility pole shall be promptly removed at the operator's expense at any time a utility is scheduled to be placed underground or otherwise moved.
- B. All operators who intend to abandon or discontinue the use of any wireless or broadcast

**BEND CODE - CHAPTER 10-10  
DEVELOPMENT CODE**

communication facility shall notify the City of such intentions no less than 60 days prior to the final day of use.

- C. Wireless or broadcast communication facilities shall be considered abandoned 90 days following the final day of use or operation.
- D. All abandoned facilities shall be physically removed by the facility owner no more than 90 days following the final day of use or of determination that the facility has been abandoned, whichever occurs first.
- E. The City reserves the right to remove any facilities that are abandoned for more than 90 days at the expense of the facility owner.
- F. Any abandoned site shall be restored to its natural or former condition. Grading and landscaping in good condition may remain.

[Chapter 3.7 added by Ord. NS-2158, April 20, 2011]